

ENDORSED FILED
SAN MATEO COUNTY

NOV 8 2006

Clerk of the Superior Court
By E. Boffi
DEPUTY CLERK

BILL LOCKYER
Attorney General of California
ALBERT NORMAN SHELDEN
Senior Assistant Attorney General
MARGARET REITER
Supervising Deputy Attorney General
SETH E. MERMIN
Deputy Attorney General
State Bar No. 189194
455 Golden Gate Avenue, Eleventh Floor
San Francisco, CA 94102
Telephone: (415) 703-5601
Fax: (415) 703-5480

JAMES P. FOX
District Attorney, County of San Mateo
State Bar No. 45169
CHUCK FINNEY
Deputy District Attorney
400 County Center, Third Floor
Redwood City, CA 94063
Telephone: (650) 363-4097
Fax: (650) 363-4873

Attorneys for Plaintiff,
The People of the State of California

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN MATEO

**THE PEOPLE OF THE STATE OF
CALIFORNIA,**

Plaintiff,

v.

**FOX RENT A CAR, INC., a California
corporation; PAY LOW RENT A CAR, INC., a
California corporation; MAM, HOLDING, LLC, a
Nevada company; CERTIFIED AUTO BODY,
INC., a California corporation; BAYPORT CAR
RENTAL, INC., a California corporation; MARK
(MASOUD) MIRTORABI, an individual; MIKE
(MANSOUR) JABERI, an individual; and ALLEN
(ALI) REZAPOUR, an individual,**

Defendants.

CASE NO.: CIV 458851

**COMPLAINT FOR
INJUNCTION, CIVIL
PENALTIES, AND OTHER
RELIEF**

Date: November 8, 2006

1 Plaintiff, the People of the State of California, by Bill Lockyer, Attorney General of the State
2 of California, and James P. Fox, District Attorney of the County of San Mateo, allege the following
3 on information and belief:

4 **PARTIES**

5 1. Defendant Fox Rent A Car, Inc. is a California corporation.

6 2. Defendant Pay Low Rent A Car, Inc. is a California corporation. Pay Low is a franchisee
7 of Payless Car Rental System, Inc.

8 3. Defendant MAM Holding, LLC is a Nevada limited liability company.

9 4. Defendant Certified Auto Body, Inc. is a California corporation.

10 5. Defendant Bayport Car Rental, Inc. is a California corporation.

11 6. The corporate defendants listed in paragraphs 1 through 6 may be referred to collectively
12 in this complaint as "Fox."

13 7. Defendant Mark (Masoud) Mirtorabi is an individual. Mr. Mirtorabi is the president of
14 Fox Rent A Car, Inc., and an officer of the other corporate defendants, and has controlled, managed,
15 and directed the activities of the corporate defendants.

16 8. Defendant Mike (Mansour) Jaber is an individual. Mr. Jaber is vice-president and
17 secretary of Fox Rent A Car, Inc., and an officer of the other corporate defendants, and has
18 controlled, managed, and directed the activities of the corporate defendants.

19 9. Defendant Allen (Ali) Rezapour is an individual. Mr. Rezapour is vice-president and
20 treasurer of Fox Rent A Car, Inc., and an officer of the other corporate defendants, and has
21 controlled, managed, and directed the activities of the corporate defendants.

22 10. All references in this Complaint to any of the defendants include all of them, unless
23 otherwise specified. Whenever reference is made in this Complaint to any act of defendants, such
24 allegation means that each defendant acted individually and jointly with the other defendants.

25 11. At all relevant times, each defendant committed the act(s), caused others to commit the
26 act(s), or permitted others to commit the act(s) alleged in this Complaint.

27 12. Any allegation about any acts of any corporate or other business defendant shall mean that
28 the corporation or other business did the acts alleged through its officers, directors, employees,

1 agents and/or representatives while they were acting within the actual or ostensible scope of their
2 authority.

3 13. The violations of law alleged in this Complaint occurred, in relevant part, in the counties
4 of San Mateo, Los Angeles and Orange as well as elsewhere in California.

5 **BACKGROUND**

6 14. Defendants Fox, Mirtorabi, Jaber and Rezapour (collectively "Defendants") are engaged
7 in the business of renting cars to the public. Fox operates multiple offices in California, located in
8 both the southern and northern sections of the state.

9 **Use of Global Positioning System Technology to Assess Penalties**

10 15. Beginning in 2004, Defendants installed global positioning system (GPS) tracking devices
11 in certain of their vehicles offered for rental, and instituted a policy according to which renters who
12 left the area comprising California and two neighboring states were surcharged a \$50 "fee" and a
13 \$.35 penalty per mile traveled (over 100 per day) for the entirety of the rental period.

14 16. At least between March 2004 and December 2004, Defendants regularly assessed the \$50
15 "fee" and \$.35 per-mile penalty. These fees and penalties averaged \$400 per affected customer and
16 ranged as high as \$1,875.

17 **Forced Purchase of Insurance Coverage**

18 17. At least until the end of August 2005, Defendants sold their customers Renter's Liability
19 Protection (RLP) coverage, assertedly to cover damage done by the renter to third parties and their
20 vehicles. For much of the period at issue, Defendants required each customer to purchase RLP in
21 order to rent a car unless the renter could present written proof of his or her own liability insurance.

22 //

23 //

24 //

25 //

26 //

27 //

28 //

1
2 **CAUSE OF ACTION**

3 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200**
4 **(UNLAWFUL BUSINESS ACTS OR PRACTICES)**

5 18. The People reallege and incorporate by reference paragraphs 1 through 18 of this
6 Complaint.

7 19. Defendants have engaged in unfair competition as defined by California Business and
8 Professions Code section 17200 by engaging in the following acts or practices:

9 a. By charging renters \$50 plus \$.35 per mile traveled (over 100 miles per day) for the
10 entire rental period for driving beyond the asserted geographical restriction, in violation of Civil
11 Code section 1671, which forbids the assessment of such liquidated damages penalties;

12 b. By representing or implying that consumers were required to purchase RLP coverage
13 unless they could produce physical proof of their own liability coverage, in violation of section
14 1936(n) of the Civil Code, which forbids a rental company from charging any fee (beyond those
15 enumerated in that provision) that must be paid by the renter as a condition of renting the vehicle,
16 and further specifies that a rental company must make the purchase of any insurance or similar
17 product optional.

18 c. By assessing renters for vehicle damage months after those renters returned the
19 vehicles, when at the time the renters returned the vehicles Defendants made no mention of any
20 damage having been done.

21
22 WHEREFORE, Plaintiff prays for judgment as follows:

23 1. Pursuant to Business and Professions Code section 17203, that all Defendants, their
24 agents, employees, officers, representatives, successors, partners, assigns, and all persons acting in
25 concert or participating with them, be permanently enjoined from violating Business and Professions
26 Code section 17200, in connection with the violations alleged in this Complaint;

27 2. Pursuant to Business and Professions Code section 17206, that the Court assess a civil
28 penalty against each Defendant for each violation of Business and Professions Code section 17200

1 alleged in the Complaint, as proved at trial;

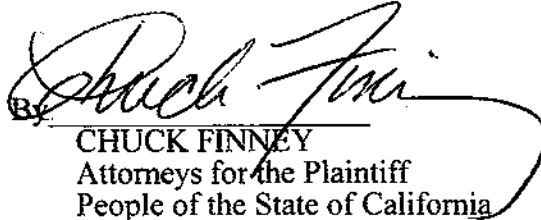
2 3. That the People recover their costs of suit; and


3 4. That the Court grant such other and further relief as it may deem just and proper.

4
5 Dated: October 31, 2006

6 JAMES P. FOX
7 District Attorney, San Mateo County
8 CHUCK FINNEY
Deputy District Attorney

BILL LOCKYER,
Attorney General
ALBERT NORMAN SHELDEN,
Senior Assistant Attorney General
MARGARET REITER,
Supervising Deputy Attorney General
SETH E. MERMIN,
Deputy Attorney General

9
10
11 
12 By CHUCK FINNEY
13 Attorneys for the Plaintiff
14 People of the State of California

By 
15 SETH E. MERMIN
16 Attorneys for the Plaintiff
17 People of the State of California

1 BILL LOCKYER
Attorney General of California
2 ALBERT NORMAN SHELLEN
Senior Assistant Attorney General
3 MARGARET REITER
Supervising Deputy Attorney General
4 SETH E. MERMIN
Deputy Attorney General
5 State Bar No. 189194
455 Golden Gate Avenue, Eleventh Floor
6 San Francisco, CA 94102
Telephone: (415) 703-5601
7 Fax: (415) 703-5480

8 JAMES P. FOX
District Attorney, County of San Mateo
9 State Bar No. 45169
CHUCK FINNEY
10 Deputy District Attorney
400 County Center, Third Floor
11 Redwood City, CA 94063
Telephone: (650) 363-4097
12 Fax: (650) 363-4873

13 Attorneys for Plaintiff,
The People of the State of California
14

15 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **FOR THE COUNTY OF SAN MATEO**

17 **THE PEOPLE OF THE STATE OF**
18 **CALIFORNIA,**

19 **Plaintiff,**

20 **v.**

21 **FOX RENT A CAR, INC., a California**
corporation; PAY LOW RENT A CAR, INC., a
22 **California corporation; MAM, HOLDING, LLC, a**
Nevada company; CERTIFIED AUTO BODY,
23 **INC., a California corporation; BAYPORT CAR**
RENTAL, INC., a California corporation; MARK
24 **(MASOUD) MIRTORABI, an individual; MIKE**
(MANSOUR) JABERI, an individual; and ALLEN
25 **(ALI) REZAPOUR, an individual,**

26 **Defendants.**

27 **Plaintiff People of the State of California through Bill Lockyer, Attorney General, and James**
28

ENDORSED FILED
SAN MATEO COUNTY

NOV 09 2006

Clerk of the Superior Court
By M. YOUNG
DEPUTY CLERK

CASE NO.: CIV 458851
STIPULATION TO ENTRY OF
JUDGMENT

Date Action Filed:
November 8, 2006

1 P. Fox, District Attorney of the County of San Mateo, and Defendants Fox Rent A Car, Inc., Pay
2 Low Rent a Car, Inc., MAM Holding, LLC, Certified Auto Body, Inc., Bayport Car Rental, Inc.,
3 Mark (Masoud) Mirtorabi, Mike (Mansour) Jaber, and Allen (Ali) Rezapour (collectively
4 "Defendants"), appearing through their attorney Mark R. Mittelman, hereby stipulate to the entry
5 of the Judgment attached hereto as Exhibit 1 (the "Judgment"), and to all of the following:

6 1. The court has jurisdiction over the subject matter of this complaint and the parties hereto.
7 The parties submit to the jurisdiction of the Superior Court of California, County of San Mateo for
8 the purpose of enabling any party to the Judgment to apply to the Court at any time for such further
9 orders or directions as may be necessary or appropriate for the construction or carrying out of the
10 Judgment, for modification of the injunctive provisions of the Judgment, and for the People to apply
11 at any time for enforcement of any provisions of the Judgment or for punishment of any violations
12 of the Judgment.

13 2. Defendants waive service of a summons and complaint in this action. Defendants agree
14 to accept notice of entry of the Judgment entered in this action by delivery of such notice to their
15 counsel of record, and agree that service of the Notice of Entry of Judgment will be deemed personal
16 service on them for all purposes.

17 3. The Judgment does not constitute an adjudication of the substantive merits of any claim
18 or defense in this case. Neither this Stipulation to Entry of Judgment nor the Judgment constitutes
19 an admission of liability or wrongdoing by Defendants.

20 4. This Stipulation is executed on behalf of Defendant Fox Rent A Car, Inc. and the other
21 corporate defendants by their officers Mike Jaber, Mark Mirtorabi, and Allen Rezapour, who
22 represent and warrant that they are authorized to execute the stipulation on behalf of Fox Rent A
23 Car, Inc. and the other corporate defendants.

24 5. Defendants warrant and represent that each of them is a proper party to the Judgment.

25 6. Defendants warrant and represent that Fox Rent A Car, Inc., Pay Low Rent a Car, Inc.,
26 MAM Holding, LLC, Bayport Car Rental, Inc., and Certified Auto Body, Inc., are the true legal
27 names of the corporate entities entering into the Judgment.

28 7. Defendants Mike Jaber, Mark Mirtorabi and Allen Rezapour warrant and represent that

1 they are officers and shareholders of Fox Rent A Car, Inc., Pay Low Rent a Car, Inc., Bayport Car
2 Rental, Inc., and Certified Auto Body, Inc., each of which is a California corporation, and MAM
3 Holding, LLC, which is a Nevada limited liability company.

4 8. Defendants warrant and represent that Fox Rent A Car, Inc., Pay Low Rent a Car, Inc.,
5 MAM Holding, LLC, Certified Auto Body, Inc., and Bayport Car Rental, Inc. have no shareholders,
6 owners or officers besides Mike Jaber, Mark Mirtorabi and Allen Rezapour, and that Mike Jaber,
7 Mark Mirtorabi and Allen Rezapour have no interest in any car rental business other than through
8 their interests in these entities.

9 9. Defendants warrant and represent that the execution and delivery of this Stipulation to
10 Entry of Judgment is a free and voluntary act and that the Stipulation to Entry of Judgment and the
11 Judgment are the result of good faith settlement negotiations.

12 10. Defendants warrant and represent that the information, documents, and compilations of
13 information provided by Defendants to counsel for the People during the course of settlement
14 negotiations are substantially accurate and complete. If the People determine in their sole discretion
15 that the information provided during settlement negotiations was not substantially accurate and
16 complete, the People may move in court for, and Defendants stipulate to the entry of, an order
17 vacating the Judgment. Defendants stipulate to the tolling of any applicable statute of limitations
18 so that the period between the entry of the Judgment and the date on which any action is
19 recommenced under this paragraph shall be excluded from determining the appropriate limitations
20 period.

21 11. Defendants acknowledge that they have had the opportunity to review independently, have
22 reviewed with their counsel, and understand (1) the terms of this Stipulation and (2) the terms of the
23 Judgment.

24 12. On execution of this Stipulation, Defendants will deliver the following to counsel for the
25 People: (1) in payment of restitution pursuant to Business and Professions Code section 17203 of
26 surcharges imposed for asserted violations of Defendants' geographical restrictions policy, a
27 certified check or cashier's check made out to the California Attorney General in the amount of
28 eighty-nine thousand dollars (\$89,000.00); (2) in partial payment of restitution pursuant to Business

1 and Professions Code section 17203 of charges imposed for the purchase of Renter's Liability
2 Protection (RLP) policies, a certified check or cashier's check made out to the California Attorney
3 General District Attorney in the amount of one hundred sixty-one thousand dollars (\$161,000.00);
4 (3) documents establishing the Defendants have opened a separate bank account containing at least
5 \$25,000.00, to be applied pursuant to Business and Professions Code section 17203 to restitution
6 of charges involving practices other than geographical restrictions about which consumers have
7 complained.

8 13. Defendants acknowledge that counsel for the People, in their sole discretion, shall
9 determine, after consultation with Defendants, whether a person is entitled to restitution and the
10 amount of restitution due that person. Defendants acknowledge that counsel for the People, in their
11 sole discretion, shall determine, after consultation with Defendants, whether Defendants must
12 deliver to counsel for the People additional bank or certified check(s) in order to effect full
13 restitution for customers charged for violations of geographical restrictions pursuant to the
14 Judgment. Defendants further acknowledge that counsel for the People, in their sole discretion, shall
15 determine, after consultation with Defendants, whether Defendants must add funds, and in what
16 amount, to the separate bank account out of which Defendants will pay customers submitting
17 complaints about subjects other than geographical restrictions.

18 14. Defendants acknowledge their obligation, pursuant to Business and Professions Code
19 section 17203, to pay such further amounts in restitution, and by such dates, as are set out in the
20 Judgment.

21 15. Defendants acknowledge their obligation, pursuant to Business and Professions Code
22 section 17206, to make such payment of civil penalties, and by such dates, as are set out in the
23 Judgment.

24 16. Defendants acknowledge their obligation to make such payment of investigative costs and
25 expenses, and by such dates, as are set out in the Judgment.

26 17. On execution of this Stipulation, Defendants will deliver to counsel for the People a
27 cashier's check or certified check made out to the San Mateo Superior Court in an amount sufficient
28 to satisfy all court costs associated with Defendants' appearance in this action, including any fee for

1 the filing of the Stipulation to Entry of Judgment.

2 18. On execution of this Stipulation, Defendants will deliver to counsel for the People two
3 letters of credit, one in the amount of \$211,000.00 (two hundred eleven thousand dollars) and one
4 in the amount of \$139,000.00 (one hundred thirty-nine thousand dollars), issued in favor of the
5 California Attorney General's Office and the San Mateo County District Attorney's Office, as
6 security for those amounts yet to be paid (in January 2007 and March 2007) under the terms set forth
7 in the Judgment and in Exhibit 2 to this Stipulation. The People agree that after they receive from
8 Defendants the full payment due January 15, 2007, they will send a letter pursuant to the terms of
9 Exhibit 2 to this Stipulation for the purpose of canceling the letter of credit in the amount of
10 \$211,000.00. The People further agree that, after they receive from Defendants the full payment due
11 March 15, 2007, they will send a letter pursuant to the terms of Exhibit 2 to this Stipulation for the
12 purpose of canceling the letter of credit in the amount of \$139,000.00.

13 19. The parties warrant that they will implement the terms of the Judgment in good faith.

14 20. Counsel for Plaintiff may submit the Judgment to any judge or commissioner of the
15 superior court for approval and signature, based on this Stipulation to Entry of Judgment, during the
16 court's ex parte calendar or on any other ex parte basis, without notice to or any appearance by
17 Defendants, which notice and right to appear Defendants hereby waive.

18 21. Defendants hereby waive the right to appeal, to set aside or vacate, or otherwise to attack
19 directly or collaterally the Judgment entered pursuant to this Stipulation and attached hereto as
20 Exhibit 1, or any provision thereof.

21 22. This Stipulation may be executed in counterparts and on multiple signature pages.

22 23. Defendants waive filing and service of a Notice of Entry of Judgment.

1
2 DATE:

10/25/06

FOX RENT A CAR, INC.

3
4 By:

MIKE J. BEH

MIKE JABERI, vice-president and secretary

5
6 DATE:

10/25/06

BAYPORT CAR RENTAL, INC.

7
8 By:

MIKE J. BEH

MIKE JABERI, vice-president and secretary

9
10 DATE:

10/25/06

PAY LOW RENT A CAR, INC..

11
12 By:

MIKE J. BEH

MIKE JABERI, vice-president and secretary

13
14 DATE:

10/25/06

MAM HOLDING, LLC

15
16 By:

MIKE JABERI

MIKE JABERI, president

17
18 DATE:

10/25/06

CERTIFIED AUTO BODY, INC.

19
20 By:

MIKE J. BEH

MIKE JABERI, vice-president and secretary

21
22 DATE:

10/25/06

MIKE J. BEH

MIKE JABERI, individually and as vice-president and secretary of defendants FOX RENT A CAR, INC., BAYPORT CAR RENTAL, INC., and PAY LOW RENT A CAR, INC.; president of defendant MAM HOLDING, LLC; and vice-president and secretary of defendant CERTIFIED AUTO BODY, INC.

23
24
25 DATE:

10/25/06

MARK MIRTORABI

MARK MIRTORABI, individually and as president of defendants FOX RENT A CAR, INC., BAYPORT CAR RENTAL, INC., and PAY LOW RENT A CAR, INC.; president of defendant CERTIFIED AUTO BODY, INC.; and vice-president and secretary of defendant MAM HOLDING, LLC

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATE: 10/25/06

Al Reza
ALLEN REZAPOUR, individually and as
vice-president and treasurer of defendants FOX RENT A
CAR, INC., BAYPORT CAR RENTAL, INC., and PAY
LOW RENT A CAR, INC.; vice-president and treasurer
of defendant CERTIFIED AUTO BODY, INC.; and
vice-president and treasurer of defendant MAM
HOLDING, LLC;

APPROVED AS TO FORM AND CONTENT:

DATE: _____

LAW OFFICES OF MARK R. MITTELMAN

By: _____
Mark R. Mittelman
Attorney for Defendants

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

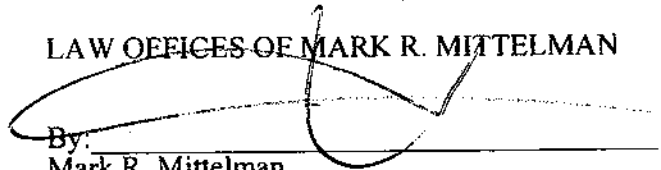
DATE: _____

ALLEN REZAPOUR, individually and as
vice-president and treasurer of defendants FOX RENT A
CAR, INC., BAYPORT CAR RENTAL, INC., and PAY
LOW RENT A CAR, INC.; vice-president and treasurer
of defendant CERTIFIED AUTO BODY, INC.; and
vice-president and treasurer of defendant MAM
HOLDING, LLC;

APPROVED AS TO FORM AND CONTENT:

DATE: 10/19/00

LAW OFFICES OF MARK R. MITTELMAN

By: 
Mark R. Mittelman
Attorney for Defendants

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATE: October 25, 2006

BILL LOCKYER, ATTORNEY GENERAL
STATE OF CALIFORNIA

By: Seth E. Mermin
Seth E. Mermin
Deputy Attorney General
Attorney for Plaintiff
People of the State of California

DATE: 11/8/06

JAMES P. FOX, DISTRICT ATTORNEY
COUNTY OF SAN MATEO

By: Chuck Finney
Chuck Finney
Deputy District Attorney
Attorney for Plaintiff
People of the State of California

EXHIBIT A

1 BILL LOCKYER
Attorney General of California
2 ALBERT NORMAN SHELDEN
Senior Assistant Attorney General
3 MARGARET REITER
Supervising Deputy Attorney General
4 SETH E. MERMIN
Deputy Attorney General
5 State Bar No. 189194
455 Golden Gate Avenue, Eleventh Floor
6 San Francisco, CA 94102
Telephone: (415) 703-5601
7 Fax: (415) 703-5480

8 JAMES P. FOX
District Attorney, County of San Mateo
9 State Bar No. 45169
CHUCK FINNEY
10 Deputy District Attorney
400 County Center, Third Floor
11 Redwood City, CA 94063
Telephone: (650) 363-4097
12 Fax: (650) 363-4873

13 Attorneys for Plaintiff,
The People of the State of California
14

15 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **FOR THE COUNTY OF SAN MATEO**

17 **THE PEOPLE OF THE STATE OF**
18 **CALIFORNIA,**

19 **Plaintiff,**

20 **v.**

21 **FOX RENT A CAR, INC., a California**
22 **corporation; PAY LOW RENT A CAR, INC., a**
23 **California corporation; MAM HOLDING, LLC, a**
24 **Nevada company; CERTIFIED AUTO BODY,**
25 **INC., a California corporation; BAYPORT CAR**
26 **RENTAL, INC., a California corporation; MARK**
27 **(MASOUD) MIRTORABI, an individual; MIKE**
28 **(MANSOUR) JABERI, an individual; and ALLEN**
(ALI) REZAPOUR, an individual,

Defendants.

CASE NO.:

[PROPOSED]
JUDGMENT

Date Action Filed:
November 8, 2006

Plaintiff People of the State of California through Bill Lockyer, Attorney General, and James

1 P. Fox, District Attorney of the County of San Mateo, and defendants Fox Rent A Car, Inc., Pay
2 Low Rent a Car, Inc., MAM Holding, LLC, Certified Auto Body, Inc., Bayport Car Rental, Inc.,
3 Mark (Masoud) Mirtorabi, Mike (Mansour) Jaber, and Allen (Ali) Rezapour (hereafter collectively
4 "Defendants"), appearing through their attorney Mark R. Mittelman, having stipulated to the entry
5 of this Judgment without the taking of proof or trial; this Judgment not constituting evidence of or
6 an admission regarding any issue alleged in the Complaint, or an adjudication of any issue of fact
7 or law; the Court having considered the Stipulation to Entry of Judgment executed by the parties and
8 filed herewith; and good cause appearing,

9 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that:

10 **JURISDICTION AND VENUE**

11 1. This Court has jurisdiction of the subject matter of this action and of the parties. Venue
12 as to all matters between the parties relating to this action is proper in this Court.

13 **INJUNCTION**

14 2. Pursuant to Business and Professions Code section 17203, Defendants Fox Rent A Car,
15 Inc., Pay Low Rent a Car, Inc., MAM Holding, LLC, Certified Auto Body, Inc., Bayport Car Rental,
16 Inc., Mike (Mansour) Jaber, Mark (Masoud) Mirtorabi, and Allen (Ali) Rezapour, as well as their
17 agents, employees, officers, representatives, successors, partners, assigns, and all persons acting in
18 concert or participating with any of them (hereafter collectively "Fox"), are hereby immediately and
19 permanently enjoined and restrained:

20 A. With respect to **Global Positioning System (GPS) Devices and Geographical**
21 **Restrictions**, from directly or indirectly:

22 1. Obtaining, accessing or using any information relating to a renter's use of a
23 vehicle when that information was secured using GPS or other electronic
24 surveillance technology in any manner, except as follows:

25 a. When the equipment is used by Fox only for the purpose of locating a
26 stolen, abandoned, or missing rental vehicle after one of the following:

27 i. The renter or law enforcement has informed Fox that the vehicle has
28 been stolen or abandoned or is missing;

1 ii. The rental vehicle has not been returned within a week after the
2 contracted return date plus any extension of that return date; or
3 iii. Fox has discovered that the rental vehicle has been stolen or
4 abandoned and, if the vehicle has been stolen, Fox has reported the
5 vehicle stolen to law enforcement by filing a stolen vehicle report.
6 (The last part of the previous sentence shall not apply if law
7 enforcement, per paragraph 1.A.i. above, has already informed Fox
8 that the vehicle has been stolen or abandoned or is missing.)

9 b. In response to a specific request from law enforcement pursuant to a
10 subpoena or search warrant.

11 c. As otherwise set forth in section 1936(o)(3)-(6) of the Civil Code.

- 12 2. Using GPS or other electronic surveillance technology to track a renter in order
13 to impose surcharges, fines, penalties or any other charge relating to the renter's
14 use of the vehicle.
- 15 3. Failing to keep records (in a manner at least as complete as that set forth in
16 section 1936(o)(1)(B) of the Civil Code) of each time Fox uses GPS or other
17 electronic surveillance technology to contact a vehicle, or failing to keep these
18 records for three years from the time of such contact, or failing to make these
19 records available to the offices of the Attorney General and District Attorney
20 within seven days after receipt of a request for inspection.
- 21 4. Failing to ensure, if Fox uses GPS or other electronic surveillance technology,
22 that renters are clearly and conspicuously informed, at every stage of the rental
23 process other than telephone conversations – in advertisements (including all
24 statements on Fox's website(s)), during the reservation process, and at the rental
25 counter or self-service kiosk – (1) that GPS or similar devices may be present
26 in Fox's cars, and (2) of the ways in which those devices may be used by Fox.
27 In a telephone conversation, Fox must inform a renter about the presence of the
28 devices if the renter raises the issue. If Fox lacks decisionmaking authority

1 over a particular stage or portion of a stage of the rental process, then, with
2 respect to that stage or portion of a stage, Fox shall make best efforts to ensure
3 that renters are clearly and conspicuously informed about the presence of the
4 devices.

- 5 5. Failing to ensure, if Fox places geographical restrictions on where renters may
6 drive Fox's vehicles, that renters are clearly and conspicuously informed, at
7 every stage of the rental process – in advertisements, during the reservation
8 process, and at the rental counter or self-service kiosk – that there are
9 geographical restrictions on where a driver may take Fox's vehicle, and of what
10 those restrictions are. If Fox lacks decisionmaking authority over a particular
11 stage or portion of a stage of the rental process, then, with respect to that stage
12 or portion of a stage, they shall make best efforts to ensure that renters are
13 clearly and conspicuously informed of the existence and nature of these
14 geographical restrictions.

15 B. With respect to **Renter's Liability Protection (RLP)**, from directly or indirectly:

- 16 1. Requiring renters to purchase RLP, or any other insurance or similar product
17 (including but not limited to Collision Damage Waiver (CDW) or Loss Damage
18 Waiver (LDW)), as a condition of rental;
- 19 2. Offering for sale RLP or any other optional insurance or similar product
20 (including but not limited to CDW or LDW), unless Fox ensures that renters are
21 clearly and conspicuously informed, at every stage of the rental process – in
22 advertisements (including all statements on Fox's website(s)), during the
23 reservation process, and at the rental counter or self-service kiosk – (1) that they
24 do not need to purchase RLP or any other insurance or similar product from Fox
25 in order to rent a vehicle from Fox, and (2) that they may wish to check with
26 their own insurance company and/or credit card company to determine whether
27 they already possess the relevant coverage. That is, Fox must inform its
28 customers and potential customers that the purchase of these products is

1 optional, and Fox is prohibited from using such statements as "Proof of Auto
2 Liability Insurance must be produced at time of rental." If Fox lacks
3 decisionmaking authority over a particular stage or portion of a stage of the
4 rental process, then, with respect to that stage or portion of a stage, Fox shall
5 use best efforts to ensure that renters are clearly and conspicuously informed
6 that the purchase of these products is optional.

- 7 3. Offering for sale RLP or any other optional insurance or similar product
8 (including but not limited to CDW or LDW) without requiring renters to
9 affirmatively sign or initial the rental contract (or the electronic equivalent at
10 a self-service kiosk) next to a clear and conspicuous description of the
11 insurance or similar product being purchased, its price, and the fact that buying
12 the coverage is optional, in order to purchase the product.
- 13 4. Failing to develop, maintain and employ either (1) a script or (2) an outline
14 which Fox must use in presenting insurance and similar products to all renters
15 (including those at self-service kiosks). The script or outline must convey
16 clearly and conspicuously to all renters that the purchase of any insurance or
17 similar product from Fox is entirely optional and that Fox will rent the vehicle
18 to the renter even if the renter declines to purchase the products offered. The
19 script or outline must also provide that if a customer communicates that he or
20 she does not wish to purchase a particular type of coverage or coverages, Fox
21 (including at its self-service kiosks) may not continue to discuss that type of
22 coverage or coverages and may not raise the issue again later in the transaction.
23 This provision shall not prevent Fox from later discussing the issue if (but only
24 if) the renter or another member of the renter's party raises the issue. If a
25 regular Fox customer at the rental counter informs a counter agent that he or she
26 does not wish to hear the script or outline, the agent may terminate the
27 presentation at that point.
- 28 5. Failing to maintain "CUSTOMER NOTICE" signs prominently displayed at all

1 rental locations, and clearly and conspicuously visible to all renters who come
2 to all rental locations, that state under the heading "UNDER CALIFORNIA
3 LAW" as follows:

- 4 a. As a first bullet point: "You do not have to purchase any insurance in
5 order to rent a car.";
- 6 b. As a second bullet point: "The insurance we offer may duplicate coverage
7 already provided by your auto insurance policy or your credit card. Feel
8 free to use our telephone to check.";
- 9 c. As a third bullet point: "Fox Rent-A-Car rental agents are not qualified or
10 authorized to evaluate the adequacy of your existing insurance
11 coverage/policy."

- 12 6. Varying employees' or agents' compensation in any way directly or solely
13 based on either (1) the number of renters to whom the employees or agents sell
14 RLP or any other optional insurance or similar product (including but not
15 limited to CDW or LDW), or (2) the amount of such coverage (i.e. premiums)
16 sold.

17 C. With respect to **Damage to Vehicles**, from directly or indirectly:

- 18 1. Charging or making a claim against a renter for damage to a vehicle unless all
19 of the following are true:
 - 20 a. The damage is of a type for which the renter may be held liable;
 - 21 b. The renter was explicitly given the opportunity to inspect the vehicle for
22 damage at the commencement and after the completion of the rental –
23 specifically, prior to taking possession of the rental vehicle, the renter was
24 informed clearly and conspicuously, both orally and in a written statement
25 on the vehicle-damage diagram sheet, of his or her right to inspect the
26 vehicle for damage, and best efforts were made to inform the renter orally
27 of this right at the time he or she returned the vehicle;
 - 28 c. Fox inspected and can document the vehicle's condition immediately prior

1 to and immediately after the rental;

2 d. Fox pointed out the asserted damage to the renter at the time the renter
3 returned the vehicle, and notified the renter of the cost of repair within
4 twenty days of the end of the rental.

5 D. With respect to **Other Violations of Law**, from:

6 Otherwise violating section 17200 of the Business & Professions Code as to the
7 conduct described herein, or section 1936 of the Civil Code.

8 3. Fox is additionally immediately and permanently enjoined as follows:

9 A. With respect to **Retention of Records**, to:

10 Continue to retain rental records for each renter, including the rental contract
11 and copies of all written correspondence (U.S. Mail, electronic mail, etc.) and
12 records of telephone conversations if any, for three years from completion of
13 the rental period. Records must be kept in such a way that they can be made
14 available to the offices of the District Attorney and Attorney General within
15 seven days of the date of a request for inspection.

16 B. With respect to **Handling of Complaints**, to:

- 17 1. Maintain a system of handling complaints that ensures that complaints are
18 addressed promptly and effectively, such that any complaint is investigated and
19 the result of the investigation communicated to the complaining renter within
20 seven days after Fox is made aware of the complaint;
- 21 2. Maintain records of (1) all complaints, including complaints sent directly to
22 corporate headquarters of Payless Car Rental, Inc. and forwarded to Fox, and
23 (2) all correspondence, including electronic correspondence, and all records of
24 telephone conversations, regarding those complaints, in a customer's file for at
25 least three years from completion of the rental period;
- 26 3. Make records of complaints available to the offices of the District Attorney and
27 Attorney General within seven days of the date of a request for inspection.

28 C. With respect to **Compliance with the Terms of This Judgment as to Third-Party**

1 **Providers, to:**

- 2 1. Ensure that any information or statement about Fox's policies or practices that
- 3 is provided by Fox to a "third party provider" – i.e., any business that provides
- 4 consumers links to or information about Fox – conforms with the terms of this
- 5 Judgment.
- 6 2. Use best efforts to ensure that any information or statement about Fox's policies
- 7 or practices that is provided by a "third-party provider" conforms with the terms
- 8 of this Judgment – and to promptly notify counsel for the People if Fox learns
- 9 of any nonconforming information or statement that Fox's best efforts have not
- 10 been able to correct.

11 D. With respect to **Distribution of the Terms of this Judgment**, to:

- 12 1. Ensure that a copy of the injunctive terms of this Judgment (together with at
- 13 least the first two pages and the last page of the Judgment) is provided to
- 14 Payless Rental Car Systems, Inc., and that a copy of the injunctive terms of the
- 15 Judgment that relate to the use of GPS (or similar) technology is provided to
- 16 Air IQ U.S., Inc./Aircept.com, LLC, and to any other provider or former
- 17 provider of GPS (or similar) tracking services to Fox.
- 18 2. Ensure that a copy of the injunctive terms of this Judgment or a training manual
- 19 containing these terms is, on at least an annual basis, made available to and
- 20 required to be read by each employee and representative, and each new hire, of
- 21 Fox Rent A Car, Inc., Pay Low Rent a Car, Inc., MAM Holding, LLC, Bayport
- 22 Car Rental, Inc., or Certified Auto Body, Inc., who has or will have direct
- 23 contact with Fox's rental car customers, and that each employee or
- 24 representative is given sufficient time, resources and opportunity at work to
- 25 become familiar with and understand the injunctive terms of the Judgment.
- 26 Fox, through its internal auditor, shall ensure that the terms of this Judgment are
- 27 complied with on an ongoing basis, and at least annually with respect to each
- 28 employee or other representative of Fox.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

21
22
23
24
25
26
27
28

PEOPLE v. FOX RENT A CAR, INC. 9 JUDGMENT

1 in covering an accident that occurred during the rental). Any questions as to
2 eligibility for or amount of restitution due a renter shall be determined by the People
3 in their sole discretion, after consultation with Defendants.

4 C. All those customers who have submitted a complaint about Fox – on a subject other
5 than geographical restrictions – to the California Attorney General’s Office, to the
6 San Mateo District Attorney’s Office, to the Better Business Bureau, to Payless
7 Corporate, or to Fox (including to Fox corporate headquarters, to any Fox office, or
8 to Payless Rent A Car), at any time between January 1, 2003 and the date of entry
9 of this Judgment, or who submit a complaint about Fox that is received by Fox or by
10 counsel for the People within ninety (90) days of the date of entry of this Judgment
11 – on a subject other than geographical restrictions or RLP – within 90 days after the
12 date of entry of this Judgment (the “Miscellaneous Restitution Period”), shall be
13 eligible to have restored to them all amounts not previously restored (including any
14 taxes paid) that were obtained in violation of Business and Professions Code section
15 17200, as determined by the People in their sole discretion after consultation with
16 Defendants. This restitution shall be carried out as set forth in paragraph 6.B.1.
17 below.

18 5. Defendants shall provide funds for the foregoing restitution as follows:

19 A. On or before the date of entry of this Judgment, Defendants shall provide to counsel
20 for the People (1) a certified check or cashier’s check in the amount of \$89,000.00,
21 (eighty-nine thousand dollars) made payable to the “California Attorney General’s
22 Office,” to be applied toward restitution of geographical surcharges as set forth in
23 paragraph 4.A. above, (2) a certified check or cashier’s check in the amount of
24 \$161,000.00 (one hundred sixty-one thousand dollars), made payable to the
25 “California Attorney General’s Office,” to be applied toward restitution of RLP
26 charges as set forth in paragraph 4.B. above, and (3) documents establishing that
27 Defendants have opened a separate bank account, containing at least \$25,000.00
28 (twenty-five thousand dollars), to be applied toward restitution of miscellaneous

1 charges that were the subject of customer complaints as set forth in paragraph 4.C.
2 above.

- 3 B. On or before January 15, 2007, Defendants shall provide to counsel for the People
4 an additional certified check or cashier's check in the amount of \$189,000.00 (one
5 hundred eighty-nine thousand dollars), made payable to the "California Attorney
6 General's Office," to be applied toward restitution of RLP charges.

7 SETTLEMENT ADMINISTRATION

8 6. Restitution shall be effected (1) in part by a third-party Settlement Administrator selected
9 by Plaintiff and engaged and compensated by Defendants, and (2) in part directly by Defendants.

- 10 A. The Settlement Administrator shall administer restitution as follows:

11 1. Geographic Restrictions

12 All Fox customers who, through the use of a GPS device in Fox's vehicles,
13 were assessed a surcharge for assertedly violating geographical restrictions
14 shall have restored to them the full amount of the surcharge (including any tax
15 thereon) that they paid and have not recovered.

- 16 a. The California Attorney General's Office will transfer the \$89,000.00 paid
17 by Defendants, plus any applicable interest, to an interest-bearing account
18 established by the Settlement Administrator to handle restitution related
19 to surcharges for geographical violations (the "GPS Restitution Account").

- 20 b. The Settlement Administrator shall send a notice (the "GPS Notice") to
21 each customer who was assessed a surcharge for assertedly violating
22 geographical restrictions during the GPS Restitution Period, informing the
23 customer that s/he may be entitled to restitution pursuant to this Judgment.
24 The notice shall be printed on a "double postcard" and shall contain
25 substantially the following language:

26 "The California Attorney General and the San Mateo County District
27 Attorney have filed a judgment against Fox Rent A Car. The Judgment
28 requires Fox Rent A Car to refund money to Fox customers who were
charged extra for driving outside California, Nevada and Arizona. It is
illegal under California law to charge a renter a "penalty" unrelated to the

1 cost to the company of the supposed violation. Fox's records show that
2 you were charged \$[AMOUNT] as this type of penalty when you returned
your rented car to the company.

3 "Please sign and return the card below – and correct the address if
4 necessary – so that we can ensure that we send your refund to the right
5 person at the right address. If you return your card, you will receive a
6 refund in the extra amount that you were charged (and have not already
been reimbursed). This is true even if you did drive outside the three-state
area.

7 "To find out more about this case, you can go to the Attorney General's
8 website at [http://ag.ca.gov/\[\]](http://ag.ca.gov/[]). If you have any questions, you can call
the Settlement Administrator, Rosenthal & Co., at 1-800-237-0343."

9 The Settlement Administrator shall provide the telephone support services
10 referred to on the postcard. The postcard shall contain substantially the
11 statement "COURT-ORDERED REFUND NOTICE TO FOX RENT A
12 CAR CUSTOMERS (*PEOPLE v. FOX RENT A CAR*)" on the side of the
13 postcard that contains the customer's address. General background
14 information about the case, including copies of the settlement documents
15 and a list of responses to FAQs, will be made available on the Attorney
16 General's website.

- 17 c. Defendants shall provide the Settlement Administrator, within fourteen
18 (14) days from the date of Entry of Judgment, with a database containing
19 the name, amount paid as a surcharge for alleged geographic violation,
20 address, telephone number, driver's license issuer and number, and email
21 address (if available) of each Fox customer eligible to receive the GPS
22 Notice. Prior to sending any GPS Notice, the Settlement Administrator
23 shall check the name and address information supplied by Defendants
24 against at least the National Change of Address database or an equivalent
25 database and make all appropriate changes. If the Settlement
26 Administrator cannot locate a current address for a given Notice recipient,
27 the Settlement Administrator shall promptly notify the parties of this fact
28 and shall, if supplied by either party with a current address, promptly mail

1 the Notice to that address.

2 d. The GPS Notification and Payment Schedule shall be as follows:

3 i. Notice to all recipients of the GPS Notice shall be sent no later than
4 30 days after entry of this Judgment (the "Mailing Date"). Any
5 notices returned as undeliverable with a change of address
6 notification shall be re-sent to the new address. Any notices returned
7 as undeliverable without a change of address notification shall be
8 checked by the Settlement Administrator using standard address-
9 search resources, and remailed to eligible recipients for whom new
10 addresses are found. The Settlement Administrator shall promptly
11 notify the parties of any eligible recipient for whom a valid address
12 has not been found and shall, if supplied by either party with a
13 current address, promptly mail the Notice to that address.

14 ii. GPS Notice recipients shall be instructed to respond by the date 60
15 days after the Mailing Date (the "Claim Deadline"). Notwithstanding
16 any other provision of this Judgment, a response received by the date
17 90 days after the Mailing Date shall be deemed timely.

18 iii. The Settlement Administrator shall send all checks for GPS
19 restitution by the date 120 days after the Mailing Date.

20 e. If the amount in the "GPS Restitution Fund" account is insufficient fully
21 to effect restitution to all customers entitled to restitution of geographical-
22 violation surcharges, the Settlement Administrator shall promptly notify
23 Defendants of the amount of the deficiency, and Defendants shall pay that
24 amount into the GPS Restitution Fund within 14 days of receiving such
25 notification.

26 2. Renter's Liability Protection

27 All Fox customers who believed they were compelled to purchase Renter's
28 Liability Protection (RLP) coverage in order to rent a car from Fox, and who

1 purchased the coverage, with respect to rentals ending at any time between
2 March 1, 2004 and August 31, 2005 inclusive (the "RLP Restitution Period"),
3 shall have restored to them an amount up to that which they paid for RLP
4 coverage (and have not recovered), as follows:

5 a. The California Attorney General's Office will transfer the amounts paid
6 by Defendants toward restitution for RLP (a total of \$350,000.00) to an
7 interest-bearing account established by the Settlement Administrator to
8 handle restitution related to unlawful sales of RLP coverage (the "RLP
9 Restitution Account").

10 b. The Settlement Administrator shall send a notice (the "RLP Notice") to
11 each person who purchased RLP during the RLP Restitution Period,
12 informing the purchaser that s/he may be entitled to restitution pursuant to
13 this Judgment. The notice shall be printed on a double-postcard and shall
14 contain substantially the following language:

15 "The California Attorney General and the San Mateo County District
16 Attorney have filed a judgment against Fox Rent A Car. The Judgment
17 requires Fox to refund money to consumers who thought they had to pay
18 for "Renter's Liability Protection" (RLP) insurance in order to rent a car.
19 It is illegal under California law for a car rental company to require
20 someone to purchase this kind of optional insurance. Fox's records show
21 that you were charged \$[AMOUNT] for RLP coverage when you rented
22 from the company.

23 "If you purchased RLP because you thought you were required to, please
24 fill out and send in the attached card. If you return your card with a check
25 in the "Yes" box, you will be eligible for a refund, up to the amount that
26 you paid for RLP (and have not already had refunded to you). This is true
27 even if you made an insurance claim under the RLP coverage.

28 "To find out more about this case, you can go to the Attorney General's
website at <http://ag.ca.gov/> []. If you have any questions, you can
call the Settlement Administrator, Rosenthal & Co., at 1-800-237-0343."

The Settlement Administrator shall provide the telephone support services
referred to on the postcard. The postcard shall contain substantially the
statement "COURT-ORDERED REFUND NOTICE TO FOX RENT A
CAR CUSTOMERS (*PEOPLE v. FOX RENT A CAR*)" on the side of the

1 postcard that contains the customer's address. General background
2 information about the case, including copies of the settlement documents
3 and a list of responses to FAQs, will be made available on the Attorney
4 General's website.

5 c. A Fox customer who was both surcharged for allegedly violating
6 geographical restrictions and charged improperly for RLP shall be entitled
7 to payment for each charge.

8 d. Defendants shall provide the Settlement Administrator, within fourteen
9 (14) days from the date of entry of this Judgment, with a database
10 containing the name, amount paid for RLP, address, phone number,
11 driver's license number, and email address (if available) of each Fox
12 customer eligible to receive the RLP Notice. Prior to sending any RLP
13 Notice, the Settlement Administrator shall check the name and address
14 information supplied by Defendants against at least the National Change
15 of Address database or an equivalent database and make all appropriate
16 changes. If the Settlement Administrator cannot locate a current address
17 for a given Notice recipient, the Settlement Administrator shall promptly
18 notify the parties of this fact and shall, if supplied by either party with a
19 current address, promptly mail the Notice to that address.

20 e. The RLP Notification and Payment Schedule shall be as follows:

21 i. Notice to all recipients of the RLP Notice shall be sent no later than
22 the Mailing Date set forth in paragraph 6.A.1.d.i above (i.e., 30 days
23 after entry of this Judgment). Any notices returned as undeliverable
24 with a change of address notification shall be re-sent to the new
25 address. Any notices returned as undeliverable without a change of
26 address notification shall be checked by the Settlement Administrator
27 using standard address-search resources, and remailed to eligible
28 recipients for whom new addresses are found. The Settlement

1 Administrator shall promptly notify the parties of any eligible
2 recipient for whom a valid address has not been found and shall, if
3 supplied by either party with a current address, promptly mail the
4 Notice to that address.

5 ii. RLP Notice recipients shall be instructed to respond by the date 60
6 days after the Mailing Date (the "Claim Deadline"). Notwithstanding
7 any other provision of this Judgment, a response received by the date
8 90 days after the Mailing Date shall be deemed timely.

9 iii. Restitution of RLP charges shall be in an amount up to the full
10 amount paid for RLP (including tax) by responding recipients of the
11 RLP notice. If the total claims by responding RLP Notice recipients
12 do not exceed the amounts available from the RLP Restitution Fund
13 (i.e., \$350,000.00 plus applicable interest) then each responding
14 claimant shall receive in restitution the full amount paid for RLP
15 during the applicable rental(s). If the total claims by responding RLP
16 Notice recipients exceed the amounts available from the RLP
17 Restitution Fund, then each responding claimant shall receive in
18 restitution a pro rata share of the amount available for distribution
19 after applicable taxes, fees and other costs have been paid.

20 iv. Restitution checks shall be sent to responding RLP Notice recipients
21 on or before the date 120 days after the Mailing Date.

22 3. The Settlement Administrator shall keep ongoing records of the name, address,
23 phone number, driver's license number, email address (if available), date(s)
24 notice sent to, date(s) response(s) received from, and date(s) restitution check(s)
25 mailed to, all potential recipients of GPS and/or RLP restitution. No later than
26 90 days after the RLP Claim Deadline, the Settlement Administrator shall
27 provide to Defendants and to Plaintiff a Report containing a final database of
28 these data – i.e., including identifying and contact information for each claimant

1 paid, the date of payment, and the amount of the claim – as well as the
2 Settlement Administrator's certification of its compliance with the procedures
3 set forth in this Judgment except to the extent of any specifically described
4 deficiencies in compliance.

5 4. Defendants shall be responsible for all costs incurred for administration of
6 restitution under this Judgment.

7 5. Each check issued by the Settlement Administrator shall bear substantially the
8 notation that "This check is void if not cashed within six months from the date
9 printed on the check." Each check issued by the Settlement Administrator shall
10 be accompanied by a Check Transmittal Letter setting out a brief description of
11 the reasons for which restitution is being made and containing a clear and
12 conspicuous reference to the "must-cash-by" date on the check. Within seven
13 months after the date of issuance of the final restitution checks, the Settlement
14 Administrator shall provide Plaintiff and Defendants with a report of the names
15 and addresses of all claimants whose checks were not cashed within six months
16 of issuance.

17 6. Any money remaining from the amounts paid by Defendants for restitution after
18 reasonable attempts have been made to provide restitution to all eligible
19 customers (the "Residual Amount") – including amounts contained in checks
20 not cashed for six months – shall be distributed as set forth below. The money
21 shall be paid to the Consumer Protection Prosecution Trust Fund previously
22 created by the Stipulated Final Judgment and Permanent Injunction, filed on
23 September 21, 1989, in the case of *People v. ITT Consumer Financial*
24 *Corporation* (Alameda County Superior Court case number 656038-0). The
25 Settlement Administrator shall deliver by express mail a bank check or certified
26 check made out to "Consumer Protection Prosecution Trust Fund" to Seth E.
27 Mermin, California Attorney General's Office, 455 Golden Gate Ave., 11th
28 Floor, San Francisco, CA 94102.

1 B. Defendants shall administer restitution directly as follows:

2 1. Miscellaneous claims

3 All Fox customers who submitted a valid complaint about the company – on a
4 subject other than geographical violations – to the California Attorney
5 General's Office, to the San Mateo District Attorney's Office, to the Better
6 Business Bureau, to Payless Corporate, or to Fox (including to Fox corporate
7 headquarters, to any Fox office, or to Payless Rent A Car) at any time between
8 January 1, 2003 and the date of entry of this Judgment, or who submit a valid
9 complaint about Defendants – on a subject other than geographical violations
10 or RLP – that is received by Fox or by counsel for the People within ninety (90)
11 days of the date of entry of this Judgment, shall have restored to them all
12 amounts not previously restored that were obtained in violation of Business and
13 Professions Code section 17200.

14 a. Eligibility for this "Miscellaneous Restitution" shall be determined by
15 counsel for the People in their sole discretion after consultation with
16 Defendants.

17 b. Miscellaneous Restitution payments shall be made by check directly by
18 Defendants to those customers, and in those amounts, determined by
19 counsel for the People. Defendants shall make best efforts to locate all
20 customers entitled to Miscellaneous Restitution, including but not limited
21 to checking the National Change of Address database or an equivalent
22 database, calling any available telephone numbers, and making use of any
23 other reasonable means proposed by counsel for the People.

24 c. On at least a monthly basis, Defendants shall provide counsel for the
25 People with the name, address, telephone number, driver's license number,
26 and email address (if available), along with the amount and date of
27 Miscellaneous Restitution paid to, each recipient of Miscellaneous
28 Restitution. Defendants shall further provide to counsel for the People, on

1 at least a monthly basis, a bank statement showing the balance and activity
2 of the separate bank account maintained for the purpose of effecting
3 Miscellaneous Restitution. Defendants shall provide to counsel for the
4 People a Final Miscellaneous Restitution Report containing a final
5 compilation of this information no later than 150 days after the date of
6 entry of this Judgment (i.e., 60 days after the date by which complaints
7 must be received in order to be eligible for Miscellaneous Restitution).

8 d. Defendants shall ensure that the amount in the separate account is
9 sufficient to effect restitution to all customers entitled to Miscellaneous
10 Restitution. If at any time counsel for the People, in their sole discretion,
11 determine that additional amounts must be paid into the separate account
12 in order to effect full payment of Miscellaneous Restitution, Defendants
13 shall pay those amounts into the separate account within 14 days of
14 receiving notice from Plaintiff of the insufficiency.

15 e. Each check issued by Defendants in payment of Miscellaneous Restitution
16 shall bear substantially the notation that "This check is void if not cashed
17 within six months from the date printed on the check" and shall be
18 accompanied by a Check Transmittal Letter setting out a brief description
19 of the reasons for which restitution is being made and containing a clear
20 and conspicuous reference to the "must-cash-by" date on the check.

21 CIVIL PENALTIES AND COSTS OF INVESTIGATION

22 7. Defendants shall pay civil penalties pursuant to Business and Professions Code section
23 17206. Defendants shall pay \$200,000.00 in civil penalties and an additional \$50,000.00 in costs
24 of investigation and expenses. On or before January 15, 2007, Defendants shall provide to counsel
25 for the People (1) certified checks or cashier's checks made out to the "Attorney General of
26 California" in the amount of \$25,000 (twenty-five thousand dollars) in payment of costs of
27 investigation and expenses, and in the amount of \$30,500 (thirty thousand five hundred dollars) in
28 partial payment of civil penalties, and (2) certified checks or cashier's checks made out to the "San

1 Mateo County District Attorney" in the amount of \$25,000 (twenty-five thousand dollars) in
2 payment of costs of investigation and expenses, and in the amount of \$30,500 (thirty thousand five
3 hundred dollars) in partial payment of civil penalties.

4 8. On or before March 15, 2007, Defendants shall provide to counsel for the People (1) a
5 certified check or cashier's check made out to the "Attorney General of California" in the amount
6 of \$69,500 (sixty-nine thousand five hundred dollars), and (2) a certified check or cashier's check
7 made out to the "San Mateo County District Attorney" in the amount of \$69,500 (sixty-nine
8 thousand five hundred dollars), each in payment of the remaining amount of civil penalties.

9 SECURITY

10 9. On or before the date of entry of this Judgment, Defendants shall provide to counsel
11 for the People two letters of credit (in a form approved by counsel or the People), one in the
12 amount of \$211,000.00 (two hundred eleven thousand dollars) and one in the amount of
13 \$139,000.00 (one hundred thirty-nine thousand dollars), as security for those amounts to be paid
14 in January 2007 and March 2007 under the terms of this Judgment.

15 OTHER PROVISIONS

16 10. Defendants shall pay all court costs associated with their appearance in this
17 action, including any fee for the filing of the Stipulation to Entry of Judgment. Except as
18 otherwise provided herein, each party shall bear its own costs and expenses.

19 11. This Judgment shall be binding and effective upon entry by the Court, and the clerk is
20 ordered to enter the Judgment immediately upon filing. This Judgment resolves the
21 above-captioned action, and is meant to resolve all and only those matters set forth in the
22 allegations of the Complaint filed in this action.

23 12. Any amount that Defendants owe under this Judgment, but which is not paid in
24 accordance with the provisions of this Judgment, shall earn interest at the rate of 10 percent per
25 annum commencing on entry of this Judgment, and (in addition to the People's rights under the
26 Letters of Credit) is subject to all post-judgment remedies provided by law.

27 13. Neither Defendants nor anyone acting on their behalf shall state or imply or cause to
28 be stated or implied that the Attorney General of California or the District Attorney of San

1 Mateo County or any state agency or officer has approved, sanctioned, or authorized any
2 practice, act or conduct of the Defendants.

3 14. In the event that the Defendants, or any of them, fail to deliver any payment by the
4 date and in the amount specified herein, the entire unpaid balance of all amounts due under the
5 terms of this Judgment shall be immediately due and payable.

6 15. This Court shall retain jurisdiction over this matter for the purpose of enabling any
7 party to this Judgment to apply to the Court at any time for such further orders or directions as
8 may be necessary or appropriate for the construction or carrying out of this Judgment, for
9 modification of the injunctive provisions of this Judgment, and for the People to apply at any
10 time for enforcement of any provisions of this Judgment or for punishment of any violations of
11 this Judgment.

12
13
14 Dated: _____, 2006
15
16
17

18 JUDGE OF THE SUPERIOR COURT
19
20
21
22
23
24
25
26
27
28

1 BILL LOCKYER
Attorney General of California
2 ALBERT NORMAN SHELDEN *11/8/06*
Senior Assistant Attorney General
3 MARGARET REITER
Supervising Deputy Attorney General
4 SETH E. MERMIN
Deputy Attorney General
5 State Bar No. 189194
455 Golden Gate Avenue, Eleventh Floor
6 San Francisco, CA 94102
Telephone: (415) 703-5601
7 Fax: (415) 703-5480

8 JAMES P. FOX
District Attorney, County of San Mateo
9 State Bar No. 45169
CHUCK FINNEY
10 Deputy District Attorney
400 County Center, Third Floor
11 Redwood City, CA 94063
Telephone: (650) 363-4097
12 Fax: (650) 363-4873
13 Attorneys for Plaintiff,
The People of the State of California
14

15 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
16 FOR THE COUNTY OF SAN MATEO

17 THE PEOPLE OF THE STATE OF
18 CALIFORNIA,

19 Plaintiff,

20 v.

21 FOX RENT A CAR, INC., a California
corporation; PAY LOW RENT A CAR, INC., a
22 California corporation; MAM HOLDING, LLC, a
Nevada company; CERTIFIED AUTO BODY,
23 INC., a California corporation; BAYPORT CAR
RENTAL, INC., a California corporation; MARK
24 (MASOUD) MIRTORABI, an individual; MIKE
(MANSOUR) JABERI, an individual; and ALLEN
25 (ALI) REZAPOUR, an individual,

26 Defendants.
27
28

ENDORSED FILED
SAN MATEO COUNTY

NOV 09 2006

Clerk of the Superior Court
By M. YOUNG
DEPUTY CLERK

CASE NO.: CIV 458851

~~PROPOSED~~
JUDGMENT AND CONSENT
DECREE INCLUDING
PERMANENT INJUNCTION

Date Action Filed:
November 8, 2006 *11/8/06*

1 P. Fox, District Attorney of the County of San Mateo, and defendants Fox Rent A Car, Inc., Pay
2 Low Rent a Car, Inc., MAM Holding, LLC, Certified Auto Body, Inc., Bayport Car Rental, Inc.,
3 Mark (Masoud) Mirtorabi, Mike (Mansour) Jaber, and Allen (Ali) Rezapour (hereafter collectively
4 "Defendants"), appearing through their attorney Mark R. Mittelman, having stipulated to the entry
5 of this Judgment without the taking of proof or trial; this Judgment not constituting evidence of or
6 an admission regarding any issue alleged in the Complaint, or an adjudication of any issue of fact
7 or law; the Court having considered the Stipulation to Entry of Judgment executed by the parties and
8 filed herewith; and good cause appearing,

9 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:**

10 **JURISDICTION AND VENUE**

11 1. This Court has jurisdiction of the subject matter of this action and of the parties. Venue
12 as to all matters between the parties relating to this action is proper in this Court.

13 **INJUNCTION**

14 2. Pursuant to Business and Professions Code section 17203, Defendants Fox Rent A Car,
15 Inc., Pay Low Rent a Car, Inc., MAM Holding, LLC, Certified Auto Body, Inc., Bayport Car Rental,
16 Inc., Mike (Mansour) Jaber, Mark (Masoud) Mirtorabi, and Allen (Ali) Rezapour, as well as their
17 agents, employees, officers, representatives, successors, partners, assigns, and all persons acting in
18 concert or participating with any of them (hereafter collectively "Fox"), are hereby immediately and
19 permanently enjoined and restrained:

20 A. With respect to **Global Positioning System (GPS) Devices and Geographical**
21 **Restrictions**, from directly or indirectly:

22 1. Obtaining, accessing or using any information relating to a renter's use of a
23 vehicle when that information was secured using GPS or other electronic
24 surveillance technology in any manner, except as follows:

- 25 a. When the equipment is used by Fox only for the purpose of locating a
26 stolen, abandoned, or missing rental vehicle after one of the following:
27 i. The renter or law enforcement has informed Fox that the vehicle has
28 been stolen or abandoned or is missing;

- 1 ii. The rental vehicle has not been returned within a week after the
2 contracted return date plus any extension of that return date; or
3 iii. Fox has discovered that the rental vehicle has been stolen or
4 abandoned and, if the vehicle has been stolen, Fox has reported the
5 vehicle stolen to law enforcement by filing a stolen vehicle report.
6 (The last part of the previous sentence shall not apply if law
7 enforcement, per paragraph 1.A.i. above, has already informed Fox
8 that the vehicle has been stolen or abandoned or is missing.)
9 b. In response to a specific request from law enforcement pursuant to a
10 subpoena or search warrant.
11 c. As otherwise set forth in section 1936(o)(3)-(6) of the Civil Code.
12 2. Using GPS or other electronic surveillance technology to track a renter in order
13 to impose surcharges, fines, penalties or any other charge relating to the renter's
14 use of the vehicle.
15 3. Failing to keep records (in a manner at least as complete as that set forth in
16 section 1936(o)(1)(B) of the Civil Code) of each time Fox uses GPS or other
17 electronic surveillance technology to contact a vehicle, or failing to keep these
18 records for three years from the time of such contact, or failing to make these
19 records available to the offices of the Attorney General and District Attorney
20 within seven days after receipt of a request for inspection.
21 4. Failing to ensure, if Fox uses GPS or other electronic surveillance technology,
22 that renters are clearly and conspicuously informed, at every stage of the rental
23 process other than telephone conversations – in advertisements (including all
24 statements on Fox's website(s)), during the reservation process, and at the rental
25 counter or self-service kiosk – (1) that GPS or similar devices may be present
26 in Fox's cars, and (2) of the ways in which those devices may be used by Fox.
27 In a telephone conversation, Fox must inform a renter about the presence of the
28 devices if the renter raises the issue. If Fox lacks decisionmaking authority

1 over a particular stage or portion of a stage of the rental process, then, with
2 respect to that stage or portion of a stage, Fox shall make best efforts to ensure
3 that renters are clearly and conspicuously informed about the presence of the
4 devices.

- 5 5. Failing to ensure, if Fox places geographical restrictions on where renters may
6 drive Fox's vehicles, that renters are clearly and conspicuously informed, at
7 every stage of the rental process – in advertisements, during the reservation
8 process, and at the rental counter or self-service kiosk – that there are
9 geographical restrictions on where a driver may take Fox's vehicle, and of what
10 those restrictions are. If Fox lacks decisionmaking authority over a particular
11 stage or portion of a stage of the rental process, then, with respect to that stage
12 or portion of a stage, they shall make best efforts to ensure that renters are
13 clearly and conspicuously informed of the existence and nature of these
14 geographical restrictions.

15 B. With respect to **Renter's Liability Protection (RLP)**, from directly or indirectly:

- 16 1. Requiring renters to purchase RLP, or any other insurance or similar product
17 (including but not limited to Collision Damage Waiver (CDW) or Loss Damage
18 Waiver (LDW)), as a condition of rental;
- 19 2. Offering for sale RLP or any other optional insurance or similar product
20 (including but not limited to CDW or LDW), unless Fox ensures that renters are
21 clearly and conspicuously informed, at every stage of the rental process – in
22 advertisements (including all statements on Fox's website(s)), during the
23 reservation process, and at the rental counter or self-service kiosk – (1) that they
24 do not need to purchase RLP or any other insurance or similar product from Fox
25 in order to rent a vehicle from Fox, and (2) that they may wish to check with
26 their own insurance company and/or credit card company to determine whether
27 they already possess the relevant coverage. That is, Fox must inform its
28 customers and potential customers that the purchase of these products is

1 optional, and Fox is prohibited from using such statements as "Proof of Auto
2 Liability Insurance must be produced at time of rental." If Fox lacks
3 decisionmaking authority over a particular stage or portion of a stage of the
4 rental process, then, with respect to that stage or portion of a stage, Fox shall
5 use best efforts to ensure that renters are clearly and conspicuously informed
6 that the purchase of these products is optional.

7 3. Offering for sale RLP or any other optional insurance or similar product
8 (including but not limited to CDW or LDW) without requiring renters to
9 affirmatively sign or initial the rental contract (or the electronic equivalent at
10 a self-service kiosk) next to a clear and conspicuous description of the
11 insurance or similar product being purchased, its price, and the fact that buying
12 the coverage is optional, in order to purchase the product.

13 4. Failing to develop, maintain and employ either (1) a script or (2) an outline
14 which Fox must use in presenting insurance and similar products to all renters
15 (including those at self-service kiosks). The script or outline must convey
16 clearly and conspicuously to all renters that the purchase of any insurance or
17 similar product from Fox is entirely optional and that Fox will rent the vehicle
18 to the renter even if the renter declines to purchase the products offered. The
19 script or outline must also provide that if a customer communicates that he or
20 she does not wish to purchase a particular type of coverage or coverages, Fox
21 (including at its self-service kiosks) may not continue to discuss that type of
22 coverage or coverages and may not raise the issue again later in the transaction.
23 This provision shall not prevent Fox from later discussing the issue if (but only
24 if) the renter or another member of the renter's party raises the issue. If a
25 regular Fox customer at the rental counter informs a counter agent that he or she
26 does not wish to hear the script or outline, the agent may terminate the
27 presentation at that point.

28 5. Failing to maintain "CUSTOMER NOTICE" signs prominently displayed at all

1 rental locations, and clearly and conspicuously visible to all renters who come
2 to all rental locations, that state under the heading "UNDER CALIFORNIA
3 LAW" as follows:

- 4 a. As a first bullet point: "You do not have to purchase any insurance in
5 order to rent a car.";
- 6 b. As a second bullet point: "The insurance we offer may duplicate coverage
7 already provided by your auto insurance policy or your credit card. Feel
8 free to use our telephone to check.";
- 9 c. As a third bullet point: "Fox Rent-A-Car rental agents are not qualified or
10 authorized to evaluate the adequacy of your existing insurance
11 coverage/policy."

- 12 6. Varying employees' or agents' compensation in any way directly or solely
13 based on either (1) the number of renters to whom the employees or agents sell
14 RLP or any other optional insurance or similar product (including but not
15 limited to CDW or LDW), or (2) the amount of such coverage (i.e. premiums)
16 sold.

17 C. With respect to **Damage to Vehicles**, from directly or indirectly:

- 18 1. Charging or making a claim against a renter for damage to a vehicle unless all
19 of the following are true:
 - 20 a. The damage is of a type for which the renter may be held liable;
 - 21 b. The renter was explicitly given the opportunity to inspect the vehicle for
22 damage at the commencement and after the completion of the rental –
23 specifically, prior to taking possession of the rental vehicle, the renter was
24 informed clearly and conspicuously, both orally and in a written statement
25 on the vehicle-damage diagram sheet, of his or her right to inspect the
26 vehicle for damage, and best efforts were made to inform the renter orally
27 of this right at the time he or she returned the vehicle;
 - 28 c. Fox inspected and can document the vehicle's condition immediately prior

1 to and immediately after the rental;

2 d. Fox pointed out the asserted damage to the renter at the time the renter
3 returned the vehicle, and notified the renter of the cost of repair within
4 twenty days of the end of the rental.

5 D. With respect to **Other Violations of Law**, from:

6 Otherwise violating section 17200 of the Business & Professions Code as to the
7 conduct described herein, or section 1936 of the Civil Code.

8 3. Fox is additionally immediately and permanently enjoined as follows:

9 A. With respect to **Retention of Records**, to:

10 Continue to retain rental records for each renter, including the rental contract
11 and copies of all written correspondence (U.S. Mail, electronic mail, etc.) and
12 records of telephone conversations if any, for three years from completion of
13 the rental period. Records must be kept in such a way that they can be made
14 available to the offices of the District Attorney and Attorney General within
15 seven days of the date of a request for inspection.

16 B. With respect to **Handling of Complaints**, to:

- 17 1. Maintain a system of handling complaints that ensures that complaints are
18 addressed promptly and effectively, such that any complaint is investigated and
19 the result of the investigation communicated to the complaining renter within
20 seven days after Fox is made aware of the complaint;
- 21 2. Maintain records of (1) all complaints, including complaints sent directly to
22 corporate headquarters of Payless Car Rental, Inc. and forwarded to Fox, and
23 (2) all correspondence, including electronic correspondence, and all records of
24 telephone conversations, regarding those complaints, in a customer's file for at
25 least three years from completion of the rental period;
- 26 3. Make records of complaints available to the offices of the District Attorney and
27 Attorney General within seven days of the date of a request for inspection.

28 C. With respect to **Compliance with the Terms of This Judgment as to Third-Party**

Providers, to:

1. Ensure that any information or statement about Fox's policies or practices that is provided by Fox to a "third party provider" – i.e., any business that provides consumers links to or information about Fox – conforms with the terms of this Judgment.
2. Use best efforts to ensure that any information or statement about Fox's policies or practices that is provided by a "third-party provider" conforms with the terms of this Judgment – and to promptly notify counsel for the People if Fox learns of any nonconforming information or statement that Fox's best efforts have not been able to correct.

D. With respect to Distribution of the Terms of this Judgment, to:

1. Ensure that a copy of the injunctive terms of this Judgment (together with at least the first two pages and the last page of the Judgment) is provided to Payless Rental Car Systems, Inc., and that a copy of the injunctive terms of the Judgment that relate to the use of GPS (or similar) technology is provided to Air IQ U.S., Inc./Aircept.com, LLC, and to any other provider or former provider of GPS (or similar) tracking services to Fox.
2. Ensure that a copy of the injunctive terms of this Judgment or a training manual containing these terms is, on at least an annual basis, made available to and required to be read by each employee and representative, and each new hire, of Fox Rent A Car, Inc., Pay Low Rent a Car, Inc., MAM Holding, LLC, Bayport Car Rental, Inc., or Certified Auto Body, Inc., who has or will have direct contact with Fox's rental car customers, and that each employee or representative is given sufficient time, resources and opportunity at work to become familiar with and understand the injunctive terms of the Judgment. Fox, through its internal auditor, shall ensure that the terms of this Judgment are complied with on an ongoing basis, and at least annually with respect to each employee or other representative of Fox.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

21
22
23
24
25
26
27
28

PEOPLE v. FOX RENT A CAR, INC. 9 JUDGMENT

1 in covering an accident that occurred during the rental). Any questions as to
2 eligibility for or amount of restitution due a renter shall be determined by the People
3 in their sole discretion, after consultation with Defendants.

4 C. All those customers who have submitted a complaint about Fox – on a subject other
5 than geographical restrictions – to the California Attorney General’s Office, to the
6 San Mateo District Attorney’s Office, to the Better Business Bureau, to Payless
7 Corporate, or to Fox (including to Fox corporate headquarters, to any Fox office, or
8 to Payless Rent A Car), at any time between January 1, 2003 and the date of entry
9 of this Judgment, or who submit a complaint about Fox that is received by Fox or by
10 counsel for the People within ninety (90) days of the date of entry of this Judgment
11 – on a subject other than geographical restrictions or RLP – within 90 days after the
12 date of entry of this Judgment (the “Miscellaneous Restitution Period”), shall be
13 eligible to have restored to them all amounts not previously restored (including any
14 taxes paid) that were obtained in violation of Business and Professions Code section
15 17200, as determined by the People in their sole discretion after consultation with
16 Defendants. This restitution shall be carried out as set forth in paragraph 6.B.1.
17 below.

18 5. Defendants shall provide funds for the foregoing restitution as follows:

19 A. On or before the date of entry of this Judgment, Defendants shall provide to counsel
20 for the People (1) a certified check or cashier’s check in the amount of \$89,000.00,
21 (eighty-nine thousand dollars) made payable to the “California Attorney General’s
22 Office,” to be applied toward restitution of geographical surcharges as set forth in
23 paragraph 4.A. above, (2) a certified check or cashier’s check in the amount of
24 \$161,000.00 (one hundred sixty-one thousand dollars), made payable to the
25 “California Attorney General’s Office,” to be applied toward restitution of RLP
26 charges as set forth in paragraph 4.B. above, and (3) documents establishing that
27 Defendants have opened a separate bank account, containing at least \$25,000.00
28 (twenty-five thousand dollars), to be applied toward restitution of miscellaneous

1 charges that were the subject of customer complaints as set forth in paragraph 4.C.
2 above.

- 3 B. On or before January 15, 2007, Defendants shall provide to counsel for the People
4 an additional certified check or cashier's check in the amount of \$189,000.00 (one
5 hundred eighty-nine thousand dollars), made payable to the "California Attorney
6 General's Office," to be applied toward restitution of RLP charges.

7 SETTLEMENT ADMINISTRATION

8 6. Restitution shall be effected (1) in part by a third-party Settlement Administrator selected
9 by Plaintiff and engaged and compensated by Defendants, and (2) in part directly by Defendants.

10 A. The Settlement Administrator shall administer restitution as follows:

11 1. Geographic Restrictions

12 All Fox customers who, through the use of a GPS device in Fox's vehicles,
13 were assessed a surcharge for assertedly violating geographical restrictions
14 shall have restored to them the full amount of the surcharge (including any tax
15 thereon) that they paid and have not recovered.

16 a. The California Attorney General's Office will transfer the \$89,000.00 paid
17 by Defendants, plus any applicable interest, to an interest-bearing account
18 established by the Settlement Administrator to handle restitution related
19 to surcharges for geographical violations (the "GPS Restitution Account").

20 b. The Settlement Administrator shall send a notice (the "GPS Notice") to
21 each customer who was assessed a surcharge for assertedly violating
22 geographical restrictions during the GPS Restitution Period, informing the
23 customer that s/he may be entitled to restitution pursuant to this Judgment.

24 The notice shall be printed on a "double postcard" and shall contain
25 substantially the following language:

26 "The California Attorney General and the San Mateo County District
27 Attorney have filed a judgment against Fox Rent A Car. The Judgment
28 requires Fox Rent A Car to refund money to Fox customers who were
charged extra for driving outside California, Nevada and Arizona. It is
illegal under California law to charge a renter a "penalty" unrelated to the

1 cost to the company of the supposed violation. Fox's records show that
2 you were charged \$[AMOUNT] as this type of penalty when you returned
your rented car to the company.

3 "Please sign and return the card below – and correct the address if
4 necessary – so that we can ensure that we send your refund to the right
5 person at the right address. If you return your card, you will receive a
6 refund in the extra amount that you were charged (and have not already
been reimbursed). This is true even if you did drive outside the three-state
area.

7 "To find out more about this case, you can go to the Attorney General's
8 website at [http://ag.ca.gov/\[\]](http://ag.ca.gov/[]). If you have any questions, you can call
the Settlement Administrator, Rosenthal & Co., at 1-800-237-0343."

9 The Settlement Administrator shall provide the telephone support services
10 referred to on the postcard. The postcard shall contain substantially the
11 statement "COURT-ORDERED REFUND NOTICE TO FOX RENT A
12 CAR CUSTOMERS (*PEOPLE v. FOX RENT A CAR*)" on the side of the
13 postcard that contains the customer's address. General background
14 information about the case, including copies of the settlement documents
15 and a list of responses to FAQs, will be made available on the Attorney
16 General's website.

- 17 c. Defendants shall provide the Settlement Administrator, within fourteen
18 (14) days from the date of Entry of Judgment, with a database containing
19 the name, amount paid as a surcharge for alleged geographic violation,
20 address, telephone number, driver's license issuer and number, and email
21 address (if available) of each Fox customer eligible to receive the GPS
22 Notice. Prior to sending any GPS Notice, the Settlement Administrator
23 shall check the name and address information supplied by Defendants
24 against at least the National Change of Address database or an equivalent
25 database and make all appropriate changes. If the Settlement
26 Administrator cannot locate a current address for a given Notice recipient,
27 the Settlement Administrator shall promptly notify the parties of this fact
28 and shall, if supplied by either party with a current address, promptly mail

1 the Notice to that address.

2 d. The GPS Notification and Payment Schedule shall be as follows:

3 i. Notice to all recipients of the GPS Notice shall be sent no later than
4 30 days after entry of this Judgment (the "Mailing Date"). Any
5 notices returned as undeliverable with a change of address
6 notification shall be re-sent to the new address. Any notices returned
7 as undeliverable without a change of address notification shall be
8 checked by the Settlement Administrator using standard address-
9 search resources, and remailed to eligible recipients for whom new
10 addresses are found. The Settlement Administrator shall promptly
11 notify the parties of any eligible recipient for whom a valid address
12 has not been found and shall, if supplied by either party with a
13 current address, promptly mail the Notice to that address.

14 ii. GPS Notice recipients shall be instructed to respond by the date 60
15 days after the Mailing Date (the "Claim Deadline"). Notwithstanding
16 any other provision of this Judgment, a response received by the date
17 90 days after the Mailing Date shall be deemed timely.

18 iii. The Settlement Administrator shall send all checks for GPS
19 restitution by the date 120 days after the Mailing Date.

20 e. If the amount in the "GPS Restitution Fund" account is insufficient fully
21 to effect restitution to all customers entitled to restitution of geographical-
22 violation surcharges, the Settlement Administrator shall promptly notify
23 Defendants of the amount of the deficiency, and Defendants shall pay that
24 amount into the GPS Restitution Fund within 14 days of receiving such
25 notification.

26 2. Renter's Liability Protection

27 All Fox customers who believed they were compelled to purchase Renter's
28 Liability Protection (RLP) coverage in order to rent a car from Fox, and who

1 purchased the coverage, with respect to rentals ending at any time between
2 March 1, 2004 and August 31, 2005 inclusive (the "RLP Restitution Period"),
3 shall have restored to them an amount up to that which they paid for RLP
4 coverage (and have not recovered), as follows:

5 a. The California Attorney General's Office will transfer the amounts paid
6 by Defendants toward restitution for RLP (a total of \$350,000.00) to an
7 interest-bearing account established by the Settlement Administrator to
8 handle restitution related to unlawful sales of RLP coverage (the "RLP
9 Restitution Account").

10 b. The Settlement Administrator shall send a notice (the "RLP Notice") to
11 each person who purchased RLP during the RLP Restitution Period,
12 informing the purchaser that s/he may be entitled to restitution pursuant to
13 this Judgment. The notice shall be printed on a double-postcard and shall
14 contain substantially the following language:

15 "The California Attorney General and the San Mateo County District
16 Attorney have filed a judgment against Fox Rent A Car. The Judgment
17 requires Fox to refund money to consumers who thought they had to pay
18 for "Renter's Liability Protection" (RLP) insurance in order to rent a car.
19 It is illegal under California law for a car rental company to require
20 someone to purchase this kind of optional insurance. Fox's records show
21 that you were charged \$[AMOUNT] for RLP coverage when you rented
22 from the company.

23 "If you purchased RLP because you thought you were required to, please
24 fill out and send in the attached card. If you return your card with a check
25 in the "Yes" box, you will be eligible for a refund, up to the amount that
26 you paid for RLP (and have not already had refunded to you). This is true
27 even if you made an insurance claim under the RLP coverage.

28 "To find out more about this case, you can go to the Attorney General's
website at <http://ag.ca.gov/> []. If you have any questions, you can
call the Settlement Administrator, Rosenthal & Co., at 1-800-237-0343."

The Settlement Administrator shall provide the telephone support services
referred to on the postcard. The postcard shall contain substantially the
statement "COURT-ORDERED REFUND NOTICE TO FOX RENT A
CAR CUSTOMERS (*PEOPLE v. FOX RENT A CAR*)" on the side of the

1 postcard that contains the customer's address. General background
2 information about the case, including copies of the settlement documents
3 and a list of responses to FAQs, will be made available on the Attorney
4 General's website.

5 c. A Fox customer who was both surcharged for allegedly violating
6 geographical restrictions and charged improperly for RLP shall be entitled
7 to payment for each charge.

8 d. Defendants shall provide the Settlement Administrator, within fourteen
9 (14) days from the date of entry of this Judgment, with a database
10 containing the name, amount paid for RLP, address, phone number,
11 driver's license number, and email address (if available) of each Fox
12 customer eligible to receive the RLP Notice. Prior to sending any RLP
13 Notice, the Settlement Administrator shall check the name and address
14 information supplied by Defendants against at least the National Change
15 of Address database or an equivalent database and make all appropriate
16 changes. If the Settlement Administrator cannot locate a current address
17 for a given Notice recipient, the Settlement Administrator shall promptly
18 notify the parties of this fact and shall, if supplied by either party with a
19 current address, promptly mail the Notice to that address.

20 e. The RLP Notification and Payment Schedule shall be as follows:

21 i. Notice to all recipients of the RLP Notice shall be sent no later than
22 the Mailing Date set forth in paragraph 6.A.1.d.i above (i.e., 30 days
23 after entry of this Judgment). Any notices returned as undeliverable
24 with a change of address notification shall be re-sent to the new
25 address. Any notices returned as undeliverable without a change of
26 address notification shall be checked by the Settlement Administrator
27 using standard address-search resources, and remailed to eligible
28 recipients for whom new addresses are found. The Settlement

1 Administrator shall promptly notify the parties of any eligible
2 recipient for whom a valid address has not been found and shall, if
3 supplied by either party with a current address, promptly mail the
4 Notice to that address.

5 ii. RLP Notice recipients shall be instructed to respond by the date 60
6 days after the Mailing Date (the "Claim Deadline"). Notwithstanding
7 any other provision of this Judgment, a response received by the date
8 90 days after the Mailing Date shall be deemed timely.

9 iii. Restitution of RLP charges shall be in an amount up to the full
10 amount paid for RLP (including tax) by responding recipients of the
11 RLP notice. If the total claims by responding RLP Notice recipients
12 do not exceed the amounts available from the RLP Restitution Fund
13 (i.e., \$350,000.00 plus applicable interest) then each responding
14 claimant shall receive in restitution the full amount paid for RLP
15 during the applicable rental(s). If the total claims by responding RLP
16 Notice recipients exceed the amounts available from the RLP
17 Restitution Fund, then each responding claimant shall receive in
18 restitution a pro rata share of the amount available for distribution
19 after applicable taxes, fees and other costs have been paid.

20 iv. Restitution checks shall be sent to responding RLP Notice recipients
21 on or before the date 120 days after the Mailing Date.

22 3. The Settlement Administrator shall keep ongoing records of the name, address,
23 phone number, driver's license number, email address (if available), date(s)
24 notice sent to, date(s) response(s) received from, and date(s) restitution check(s)
25 mailed to, all potential recipients of GPS and/or RLP restitution. No later than
26 90 days after the RLP Claim Deadline, the Settlement Administrator shall
27 provide to Defendants and to Plaintiff a Report containing a final database of
28 these data – i.e., including identifying and contact information for each claimant

1 paid, the date of payment, and the amount of the claim – as well as the
2 Settlement Administrator's certification of its compliance with the procedures
3 set forth in this Judgment except to the extent of any specifically described
4 deficiencies in compliance.

5 4. Defendants shall be responsible for all costs incurred for administration of
6 restitution under this Judgment.

7 5. Each check issued by the Settlement Administrator shall bear substantially the
8 notation that "This check is void if not cashed within six months from the date
9 printed on the check." Each check issued by the Settlement Administrator shall
10 be accompanied by a Check Transmittal Letter setting out a brief description of
11 the reasons for which restitution is being made and containing a clear and
12 conspicuous reference to the "must-cash-by" date on the check. Within seven
13 months after the date of issuance of the final restitution checks, the Settlement
14 Administrator shall provide Plaintiff and Defendants with a report of the names
15 and addresses of all claimants whose checks were not cashed within six months
16 of issuance.

17 6. Any money remaining from the amounts paid by Defendants for restitution after
18 reasonable attempts have been made to provide restitution to all eligible
19 customers (the "Residual Amount") – including amounts contained in checks
20 not cashed for six months – shall be distributed as set forth below. The money
21 shall be paid to the Consumer Protection Prosecution Trust Fund previously
22 created by the Stipulated Final Judgment and Permanent Injunction, filed on
23 September 21, 1989, in the case of *People v. ITT Consumer Financial*
24 *Corporation* (Alameda County Superior Court case number 656038-0). The
25 Settlement Administrator shall deliver by express mail a bank check or certified
26 check made out to "Consumer Protection Prosecution Trust Fund" to Seth E.
27 Mermin, California Attorney General's Office, 455 Golden Gate Ave., 11th
28 Floor, San Francisco, CA 94102.

1 B. Defendants shall administer restitution directly as follows:

2 1. Miscellaneous claims

3 All Fox customers who submitted a valid complaint about the company – on a
4 subject other than geographical violations – to the California Attorney
5 General's Office, to the San Mateo District Attorney's Office, to the Better
6 Business Bureau, to Payless Corporate, or to Fox (including to Fox corporate
7 headquarters, to any Fox office, or to Payless Rent A Car) at any time between
8 January 1, 2003 and the date of entry of this Judgment, or who submit a valid
9 complaint about Defendants – on a subject other than geographical violations
10 or RLP – that is received by Fox or by counsel for the People within ninety (90)
11 days of the date of entry of this Judgment, shall have restored to them all
12 amounts not previously restored that were obtained in violation of Business and
13 Professions Code section 17200.

14 a. Eligibility for this "Miscellaneous Restitution" shall be determined by
15 counsel for the People in their sole discretion after consultation with
16 Defendants.

17 b. Miscellaneous Restitution payments shall be made by check directly by
18 Defendants to those customers, and in those amounts, determined by
19 counsel for the People. Defendants shall make best efforts to locate all
20 customers entitled to Miscellaneous Restitution, including but not limited
21 to checking the National Change of Address database or an equivalent
22 database, calling any available telephone numbers, and making use of any
23 other reasonable means proposed by counsel for the People.

24 c. On at least a monthly basis, Defendants shall provide counsel for the
25 People with the name, address, telephone number, driver's license number,
26 and email address (if available), along with the amount and date of
27 Miscellaneous Restitution paid to, each recipient of Miscellaneous
28 Restitution. Defendants shall further provide to counsel for the People, on

1 at least a monthly basis, a bank statement showing the balance and activity
2 of the separate bank account maintained for the purpose of effecting
3 Miscellaneous Restitution. Defendants shall provide to counsel for the
4 People a Final Miscellaneous Restitution Report containing a final
5 compilation of this information no later than 150 days after the date of
6 entry of this Judgment (i.e., 60 days after the date by which complaints
7 must be received in order to be eligible for Miscellaneous Restitution).

8 d. Defendants shall ensure that the amount in the separate account is
9 sufficient to effect restitution to all customers entitled to Miscellaneous
10 Restitution. If at any time counsel for the People, in their sole discretion,
11 determine that additional amounts must be paid into the separate account
12 in order to effect full payment of Miscellaneous Restitution, Defendants
13 shall pay those amounts into the separate account within 14 days of
14 receiving notice from Plaintiff of the insufficiency.

15 e. Each check issued by Defendants in payment of Miscellaneous Restitution
16 shall bear substantially the notation that "This check is void if not cashed
17 within six months from the date printed on the check" and shall be
18 accompanied by a Check Transmittal Letter setting out a brief description
19 of the reasons for which restitution is being made and containing a clear
20 and conspicuous reference to the "must-cash-by" date on the check.

21 CIVIL PENALTIES AND COSTS OF INVESTIGATION

22 7. Defendants shall pay civil penalties pursuant to Business and Professions Code section
23 17206. Defendants shall pay \$200,000.00 in civil penalties and an additional \$50,000.00 in costs
24 of investigation and expenses. On or before January 15, 2007, Defendants shall provide to counsel
25 for the People (1) certified checks or cashier's checks made out to the "Attorney General of
26 California" in the amount of \$25,000 (twenty-five thousand dollars) in payment of costs of
27 investigation and expenses, and in the amount of \$30,500 (thirty thousand five hundred dollars) in
28 partial payment of civil penalties, and (2) certified checks or cashier's checks made out to the "San

1 Mateo County District Attorney” in the amount of \$25,000 (twenty-five thousand dollars) in
2 payment of costs of investigation and expenses, and in the amount of \$30,500 (thirty thousand five
3 hundred dollars) in partial payment of civil penalties.

4 8. On or before March 15, 2007, Defendants shall provide to counsel for the People (1) a
5 certified check or cashier’s check made out to the “Attorney General of California” in the amount
6 of \$69,500 (sixty-nine thousand five hundred dollars), and (2) a certified check or cashier’s check
7 made out to the “San Mateo County District Attorney” in the amount of \$69,500 (sixty-nine
8 thousand five hundred dollars), each in payment of the remaining amount of civil penalties.

9 SECURITY

10 9. On or before the date of entry of this Judgment, Defendants shall provide to counsel
11 for the People two letters of credit (in a form approved by counsel or the People), one in the
12 amount of \$211,000.00 (two hundred eleven thousand dollars) and one in the amount of
13 \$139,000.00 (one hundred thirty-nine thousand dollars), as security for those amounts to be paid
14 in January 2007 and March 2007 under the terms of this Judgment.

15 OTHER PROVISIONS

16 10. Defendants shall pay all court costs associated with their appearance in this
17 action, including any fee for the filing of the Stipulation to Entry of Judgment. Except as
18 otherwise provided herein, each party shall bear its own costs and expenses.

19 11. This Judgment shall be binding and effective upon entry by the Court, and the clerk is
20 ordered to enter the Judgment immediately upon filing. This Judgment resolves the
21 above-captioned action, and is meant to resolve all and only those matters set forth in the
22 allegations of the Complaint filed in this action.

23 12. Any amount that Defendants owe under this Judgment, but which is not paid in
24 accordance with the provisions of this Judgment, shall earn interest at the rate of 10 percent per
25 annum commencing on entry of this Judgment, and (in addition to the People’s rights under the
26 Letters of Credit) is subject to all post-judgment remedies provided by law.

27 13. Neither Defendants nor anyone acting on their behalf shall state or imply or cause to
28 be stated or implied that the Attorney General of California or the District Attorney of San

1 Mateo County or any state agency or officer has approved, sanctioned, or authorized any
2 practice, act or conduct of the Defendants.

3 14. In the event that the Defendants, or any of them, fail to deliver any payment by the
4 date and in the amount specified herein, the entire unpaid balance of all amounts due under the
5 terms of this Judgment shall be immediately due and payable.

6 15. This Court shall retain jurisdiction over this matter for the purpose of enabling any
7 party to this Judgment to apply to the Court at any time for such further orders or directions as
8 may be necessary or appropriate for the construction or carrying out of this Judgment, for
9 modification of the injunctive provisions of this Judgment, and for the People to apply at any
10 time for enforcement of any provisions of this Judgment or for punishment of any violations of
11 this Judgment.

12 *In addition to the foregoing, the Court*
13 *also retains its Settlement Enforcement jurisdiction*
14 *under Calif. Code of Civil Procedure, § 664.6*

15 Dated: 8 November, 2006

16
17 *Gerald J. Buchwald*
18 JUDGE OF THE SUPERIOR COURT
19 GERALD J. BUCHWALD
20
21
22
23
24
25
26
27
28